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County of San Diego

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17 Attorneys for Plaintiff
18 BIRD RIDES, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION**

19 BIRD RIDES INC.,

Case No.: 37-2019-00015016-CU-BT-CTL

20 Plaintiff,

21 v.

22 TALON AUTO, INC., JOHN HEINKEL,
23 SCOOTER REMOVAL LLC, DANIEL
24 BORELLI INDIVIDUALLY AND DBA
25 BOARDWALK ELECTRIC RIDES,

**BIRD RIDES INC.'S ESTIMATE OF
COSTS AND DAMAGES**

"IMAGED FILE"

Judge: Hon. Richard S. Whitney
Dept: C-68
Action Filed: March 20, 2019
Trial Date: May 13, 2022

26
27 Defendants.

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1 The parties appeared before this Court on December 17, 2021 to hear arguments on Bird
2 Rides Inc.’s (“Bird”) Application for a Writ of Possession (“Application”). On December 21, 2021
3 the Court issued an Order (“Order”) granting Bird’s Application. In that Order, the Court instructed
4 Bird to provide an estimate of costs and damages it would “sustain by reason of the loss of
5 possession of the property.” Order at 4.

6 The October 29, 2021 Declaration of Ting Ting Guo in Support of Bird’s Ex Parte
7 Application for an Order to Shorten Time (“October 2021 Guo Declaration”) estimated that, as of
8 that date, Defendants were holding approximately 6,000 Bird scooters. Defendants continued to
9 impound Bird’s scooters between October 29, 2021 and the date of the Order, and continue to
10 impound them through today. *See* January 4, 2022 Declaration of Ting Ting Guo (“Guo Decl.”), ¶
11 2. Bird generates revenue by deploying scooters to customers who pay to ride those scooters. As a
12 general matter, the more scooters Bird can deploy the more money it can earn. *Id.* ¶ 3. Based on its
13 analysis, Bird’s conservative estimate of the revenue it lost between November 2018 and the date of
14 the Order from not being able to deploy the scooters Defendants improperly impounded and held is
15 approximately \$11.7 million. *Id.* ¶ 4. A non-conservative estimate of Bird’s lost revenues from not
16 being able to deploy those scooters during that same period is approximately \$22.9 million. *Id.* ¶ 5.

17 Bird will suffer additional losses if Defendants keep possession of the scooters that are the
18 subject of the Order. Bird conservatively estimates that it will lose an additional approximately
19 \$2.5 million in revenue in 2022 from not being able to deploy just the scooters Defendants
20 impounded that are the subject of the Order. *Id.* ¶ 6. Moreover, if Defendants impound additional
21 scooters at their current rate of impoundment in 2022, Bird conservatively estimates it will lose an
22 additional approximately \$2.5 million in revenue from such newly impounded scooters (for a total
23 revenue loss of \$5 million in 2022). *Id.* ¶ 7.

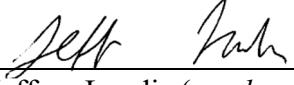
24 In light of the foregoing, even if using the most conservative figures, Bird estimates losses
25 of at least \$14 million from Scooter Removal’s improper impounding and holding of Bird’s
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1 scooters. This does not include the loss in value of the scooters themselves,¹ statutory damages
2 available to Plaintiff under the California Vehicle Code, or the costs and fees of this litigation.

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4 DATED: January 5, 2022

ZWILLGEN PLLC

5 By: 
6 Jeffrey Landis (*pro hac vice*)
7 jeff@zwillgen.com
8 **Attorney for Plaintiff**
9 BIRD RIDES, INC.

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28 ¹ As noted in the October 2021 Guo Declaration, Bird values each of its scooters taken at approximately
\$500 to \$1,200 each, depending upon the model of the scooter. October 2021 Guo Declaration, ¶ 3.

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Attorneys for Plaintiff
BIRD RIDES, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION**

BIRD RIDES INC.,

Plaintiff,

V.

TALON AUTO, INC., JOHN HEINKEL,
SCOOTER REMOVAL LLC, DANIEL
BORELLI INDIVIDUALLY AND DBA
BOARDWALK ELECTRIC RIDES

Defendants

Case No.: 37-2019-00015016-CU-BT-CTL

**DECLARATION OF TING TING GUO IN
SUPPORT OF BIRD RIDES INC.’S
ESTIMATE OF COSTS AND DAMAGES**

“IMAGED FILE”

Judge: Hon. Richard S. Whitney
Dept: C-68
Action Filed: March 20, 2019
Trial Date: May 13, 2022

1 I, TING TING GUO, declare as follows:

2 1. I am the Senior General Manager at Bird Rides, Inc. I oversee operations for several
3 cities, including San Diego. I am over the age of eighteen and have personal knowledge of the facts
4 set forth in the declaration. If called to testify, I could and would testify competently thereto.

5 2. Defendants continued to impound Bird's scooters between October 29, 2021 and
6 December 21, 2021, and are continuing to impound Bird scooters through the present.

7 3. As a general matter, the more scooters Bird can deploy the more money it can earn.

8 4. Based on its internal analysis, Bird's conservative estimate of the revenue it lost
9 between November 2018 and December 21, 2021 from not being able to deploy the scooters
Defendants were holding is approximately \$11.7 million.

10 5. A non-conservative estimate of Bird's lost revenues from not being able to deploy
11 those scooters during that same period is approximately \$22.9 million.

12 6. Bird conservatively estimates that it will lose an additional approximately \$2.5
13 million in revenue in 2022 from not being able to deploy just the scooters Defendants impounded
14 that are the subject of the Court's December 21, 2021 Order.

15 7. If Defendants impound additional scooters at their current rate of impoundment in
16 2022, Bird conservatively estimates it will lose an additional approximately \$2.5 million in revenue
17 from such newly impounded scooters (for a total revenue loss of \$5 million in 2022).

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
19 and correct.

1 Executed this 4th day of January, 2022 in San Diego, California.

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4 Ting Ting Guo

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1 Bird Rides Inc. v. Talon Auto Inc., et al.
2 San Diego County Superior Court
3 Case No. 37-2019-00015016-CU-BT-CTL

4 **PROOF OF SERVICE**

5 I am a citizen of the United States; I am over the age of eighteen years, and not a party to the
6 within action; my business address is 1900 M Street NW, Suite 250, Washington, D.C. 20036. On
7 the date set forth below I served **BIRD RIDES INC.'S ESTIMATE OF COSTS AND**
8 **DAMAGES AND DECLARATION OF TING TING GUO IN SUPPORT THEREOF** on the
9 following person(s) in this action:

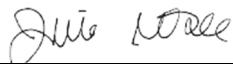
10 Robert W. Frank
11 Marisa D. Sarti
12 Neil, Dymott, Frank, McCabe & Hudson
13 A Professional Law Corporation
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15 Tel. 619-238-1712
16 Fax: 619-238-1562
17 rfrank@neildymott.com
18 msarti@neildymott.com
19 *Attorneys for Defendants Talon Auto, Inc, John Heinkel,
Scooter Removal LLC, Daniel Borelli dba Boardwalk
Electric Rides, and Daniel Borelli*

20 (VIA MAIL -- CCP §§ 1013(a), 2015.5) By placing a true copy thereof enclosed in a sealed envelope(s),
21 addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am
22 readily familiar with my firm's business practice of collection and processing of correspondence for mailing with the
23 U.S. Postal Service and correspondence placed for collection and mailing would be deposited in the U.S. Postal Service
24 at Washington, D.C., with postage thereon fully prepaid, that same day in the ordinary course of business.

25 (VIA PERSONAL DELIVERY -- CCP §§ 1011, 2015.5) By placing a true copy enclosed in a sealed
26 envelope(s), addressed as above, and causing each envelope(s) to be hand delivered on that day by _____, in the ordinary
27 course of my firm's business practice.

28 (E-MAIL OR ELECTRONIC TRANSMISSION -- CCP §§ 1013, 2015.5) Based on a court order or an
agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the
persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any
electronic message or other indication that the transmission was unsuccessful.

29 I declare that I am employed in the office of a member of the bar of this court at whose
30 direction the service was made. Executed on January 5, 2022 at Greenbelt, MD.

31 
32 _____
33 Jamie Moses